

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

TF-0014/MK
June 12, 2024
9:00 AM

IN RE: x

Case No. 23-22070-CGM-13

JOHANNA T. CARFAGNO,

Hon. CECELIA G. MORRIS

NOTICE OF MOTION

Debtor.

x

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Cecelia G. Morris, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, VIA ZOOM on the 12th day of June, 2024 at 9:00 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that any hearing on the within application will be held by telephone or Zoom video conference only. No in-person hearing will be held in the Courthouse. Participants are required to register their appearance at <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl> 48 hours before the scheduled hearing.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Thomas C. Frost, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
May 20, 2024

/s/ Thomas C. Frost
THOMAS C. FROST, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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JOHANNA T. CARFAGNO,

Hon. CECELIA G. MORRIS

APPLICATION

Debtor.

x

TO THE HONORABLE CECELIA G. MORRIS, U.S. BANKRUPTCY JUDGE:

THOMAS C. FROST, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on January 26, 2023 and, thereafter, THOMAS C. FROST was duly appointed and qualified as Trustee.
2. The Debtor's proposed Chapter 13 plan is not feasible as it is not adequately funded to provide for full repayment to the secured claims as required by 11 U.S.C. §1325(a)(5), unless property sale is successful.
3. Further, the Plan dated January 25, 2023 includes a nonstandard provision advising that "The Debtor intends to sell her property and satisfy the tax debt listed in 3.1 (b) of this plan pursuant to a motion under Section 363 of the Bankruptcy Code. The rest of the debt will be paid 100% through the plan and as such the Debtor will not turn over her tax refunds if she receives any." See, Plan Part 8. To date, no motions have been filed relating to said sale and this delay is prejudicial to creditors under 11 U.S.C. §1307(c).
4. The deficiencies as stated above impede the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).
5. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
May 20, 2024

/s/ Thomas C. Frost
Thomas C. Frost, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Case No: 23-22070-CGM-13

JOHANNA T. CARFAGNO,

**CERTIFICATE OF SERVICE
BY MAIL**

Debtor.

X

This is to certify that I, Nancy Alexander, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

JOHANNA T. CARFAGNO
6 VAN RENSSELAER ROAD
KATONAH, NY 10536-3201

H. BRUCE BRONSON, JR, ESQ.
480 MAMARONECK AVENUE
HARRISON, NY 10528

This May 20, 2024

/s/Nancy Alexander
Nancy Alexander, Paralegal
Office of the Standing Chapter 13 Trustee
Thomas C. Frost, Esq.
399 Knollwood Road, Suite 102
White Plains, New York 10603
(914) 328-6333

CASE NO: 23-22070-CGM-13
Hon. CECELIA G. MORRIS

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

JOHANNA T. CARFAGNO,

Debtor.

**NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE**

**THOMAS C. FROST
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333**
